

Appl. No. 10/814,379  
Amdt. Dated September 21, 2006  
Reply to Office Action of June 22, 2006

### **REMARKS/ARGUMENTS**

Favorable reconsideration of this application is requested in view of the amendments made above and the remarks that follow.

Nursing aprons are known in the art that provide privacy to the mother, and infant carriers are known that provide a sling-like structure for supporting an infant, but applicant is not aware of any nursing aprons having the particular construction and function of the present invention, wherein the apron provides both privacy to the mother and support to the infant.

The apron of the invention not only covers the chest area of a mother nursing an infant to thereby afford privacy to the nursing mother, but also provides at least partial support to the nursing infant. The nursing apron of the invention comprises a piece of fabric having a length to extend from the neck of the user to about the waist, and a width at the top slightly narrower than the shoulders and a width at the bottom adapted to wrap around the front and sides of the midsection, whereby the apron covers and conceals the front of the upper body. An adjustable neck strap extends from the top end, and a neck pad is slidably mounted on the neck strap to distribute the weight of the infant and increase comfort during use. Securing means is attached to the bottom of the apron to secure the bottom snugly about the midsection of the mother so that the piece of material forms a pouch for receiving and supporting an infant during breastfeeding. A movable side flap on each side of the piece of fabric can be positioned to completely cover the nursing infant, or moved to partially expose the head of the infant while maintaining privacy to the mother.

In the Office Action of June 22, 2006, the patent to Krich et al (4,469,259) was said to anticipate claims 1, 2, 4 and 5 under 35 USC 102(b); the patents to De Lasarte (2,124,366) and Morganti (2,567,524) were said to anticipate claims 1-4, 6 and 8-10 under 35 USC 102(b); the patent to Swanke (Des 425,696) was said to anticipate claims 1-3, 8 and 9 under 35 USC 102(b); and claims 4-7 and 10 were said to be obvious in view of Swanke modified in view of Napolitano (4,579,264) under 35 USC 103(a).

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None of these patents, whether considered alone or in combination, disclose or suggest the nursing apron of the invention.

The patent to Krich et al discloses a baby carrier comprising a panel 11 that is wider at the top than at the bottom, and the carrier is configured to extend under the bottom of an infant to support the infant, with the arms and legs of the infant extending or projecting out of the carrier. Shoulder straps 12R and 12L extend over the shoulders of the user and cross at the back for attachment to O-rings 18 carried on the ends of straps 17R and 17L attached to a midportion of the panel 11. As noted by the examiner, it is mentioned at column 2, lines 24-26, that breastfeeding may be accomplished using the carrier of this patent if the infant is facing rearwardly. However, as clearly seen in figure 2, the top of the panel 11 is spaced well down on the chest of the user and would not conceal the breasts during breastfeeding, as now claimed. Moreover, the carrier does not cover an infant supported therein, as now claimed. Instead, the arms, legs and head of the infant are exposed beyond the edges of the carrier. The sides do not taper inwardly toward the top, as now claimed, but instead taper inwardly toward the bottom. There is no neck strap extending around the neck of the user, as now claimed. Instead, the straps 12R and 12L extend over the shoulders. There are no privacy flaps on the opposite side edges of the apron for selectively covering or uncovering the head of an infant covered and supported by the apron, as now claimed. Further, the opposite side edges of the apron are not positioned so that the head of a nursing infant can be seen past a respective side edge, as claimed. Instead, the head of the infant extends above the upper edge of the carrier.

In order to anticipate a claim, all the claimed elements must be found in the cited reference. Clearly, Krich does not teach or suggest all the claimed elements identified above and found in amended claim 1 or new claim 11 and the claims dependent therefrom, respectively. Accordingly, this ground of rejection is improper and should be withdrawn.

The patent to De Lasarte is directed primarily to a surgical gown and is constructed to cover essentially the entire body of the wearer. The upper portion or waist 10 is permanently attached to the lower part or skirt 11, which presumably extends to the feet of the wearer, and a

separate drape or cape 36 is designed to cover the back and shoulders. Parts of the gown may be folded away to enable a doctor to gain access to selected parts of the anatomy, while other parts remain covered. A portion of the front of the gown is designed to form a brassiere 33, 34, but this terminates immediately below the breasts and most of the length of a central portion of the gown is cut away below this area. This structure would not be capable of forming a pouch for supporting an infant in a nursing position. The discussion at column 1, lines 8-14, wherein it is said that the gown may be employed "as a maternity garment where it is desired to adjust the size of the garment from time to time and also expose the breast portions of the body in a convenient, comfortable and accessible manner without unduly exposing the person." does not explain how this is to be accomplished. It would appear that the front panel or flap 23 would have to be folded down and one or the other of the brassiere portions 33, 34 lifted up to expose the breast or breasts. The garment in this patent does not comprise an apron having a length to extend from the neck of the user to about the waist, and a width at the top slightly narrower than the shoulders and a width at the bottom adapted to wrap around the front and sides of the midsection, whereby the apron covers and conceals the front of the upper body. It also does not have an adjustable neck strap extending from the top end, or a neck pad slidably mounted on the neck strap to distribute the weight of the infant and increase comfort during use. Further, it does not have securing means attached to the bottom of the apron to secure the bottom snugly about the midsection of the mother so that the piece of material forms a pouch for receiving and supporting an infant during breastfeeding, nor does it have a movable side flap on each side of the piece of fabric that can be positioned to completely cover the nursing infant, or moved to partially expose the head of the infant while maintaining privacy to the mother.

Clearly, De Lasarte does not teach or suggest all the claimed elements identified above and found in amended claim 1 or new claim 11 and the claims respectively dependent therefrom. Accordingly, this ground of rejection is improper and should be withdrawn.

The patent to Swanke discloses a child carrier comprising a relatively narrow panel of material that is wider at the top than at the bottom, and has a shoulder strap adapted to extend

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over one shoulder of the user and a waist strap adapted to encircle the waist of the user. The carrier appears to be constructed and intended to carry a child over one hip, with the arms, legs and head of the child exposed beyond the edges of the carrier. It does not comprise an apron having a length to extend from the neck of the user to about the waist, and a width at the top slightly narrower than the shoulders and a width at the bottom adapted to wrap around the front and sides of the midsection, whereby the apron covers and conceals the front of the upper body and forms a pouch for covering and supporting an infant in a nursing position. It also does not have an adjustable neck strap extending from the top end, or a neck pad slidably mounted on the neck strap to distribute the weight of the infant and increase comfort during use, nor does it have a movable side flap on each side of the piece of fabric that can be positioned to completely cover the nursing infant, or moved to partially expose the head of the infant while maintaining privacy to the mother.

Clearly, Swanke does not teach or suggest all the claimed elements identified above and found in amended claim 1 or new claim 11 and the claims dependent respectively therefrom. Accordingly, this ground of rejection is improper and should be withdrawn.

The patent to Morganti discloses a make-up hood or cape designed and intended to be draped over the shoulders and upper body of a user to protect the user's garments from make-up as the make-up is being applied to the user. There is no suggestion of using the cape of Morganti as either an infant carrier or a nursing apron, and it is not apparent how it could be used as either. The structure does not appear adequate to support an infant, and there is no suggestion that the front panel can be formed into a pouch large enough to accommodate and support an infant. Further, it is not apparent how an infant could be permitted to nurse while the user is wearing the cape. If the cape were pulled to one side to expose a breast for breastfeeding, the breast would not be covered and privacy would not be provided to the nursing mother. There also is nothing to selectively cover the infant while it is nursing.

The structure and function of the present invention are claimed as positive limitations, not merely as recitations of the intended use, and, as discussed above, Morganti does not disclose or

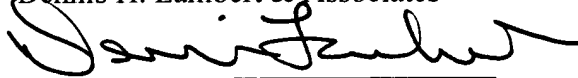
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suggest all of the claim limitations. Accordingly, the structure and function of the Morganti cape do not anticipate or suggest the invention as claimed in claim 1 or new claim 11 and the claims dependent respectively therefrom, whereby this ground of rejection is improper and should be withdrawn.

The rejection of claims 4-7 and 10 as obvious in view of Swanke modified by Napolitano under 35 USC 103(a) is believed to be unfounded and should be withdrawn. In rejecting these claims, Napolitano was relied upon as a teaching to provide a pad on the "neck strap" of Swanke, and as a teaching to tie the securing means of Swanke rather than use a clip. Swanke was said to have outwardly extending triangular portions forming flaps, as claimed. However, as discussed above Swanke does not teach the basic invention as claimed, and modification to provide a pad on the neck strap, and/or to tie the securing means, would not produce the claimed invention. There are no flaps, as claimed, in either Swanke or Napolitano. The wider portions at the upper end of the Swanke carrier could not function as flaps, since the support strap is attached at these wider portions. In order to selectively move these wider portions between a position covering the head of an infant (not possible in the Swanke structure as shown) and a position uncovering the head of an infant would, at the very least, require loosening or detachment of the support strap, whereby the carrier would not perform its intended function of supporting a child.

For the above reasons it is believed that the present invention as claimed is patentable over the prior art and an early and favorable action is requested.

Respectfully submitted,  
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